THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17373 of 1998

Dated:25.04.2007

Between
The Depot Manager, APSRTC
Hakimpet Depot, Rangareddi District
.....Petitioner

and

1.The Labour Court, III, Hyderabad
rep., by its Presiding Officer
and another.
...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17373 of 1998

ORDER:

This writ petition is filed against the award dated 28th June, 1996 in ID No.464 of 1993 (Old ID No.78 of 1992) on the file of the Labour Court-III, Hyderabad.

The petitioner is the Andhra Pradesh State Road Transport Corporation (for short 'the Corporation') and second respondent is the workman.

It appears that the second respondent was appointed as a driver in the petitioner-Corporation in the year 1989. While so, on 29.7.1989 when he was driving the bus at 11.40 hours, a motor cyclist with a pillion rider came and dashed against the left side bumper portion of the bus. Therefore, the second

respondent was charge sheeted stating that he lacked anticipation and caused fatal accident, resulting in death of a motorcyclist. After conducting a detailed enquiry into the matter, the second respondent was removed from service. Therefore, he raised a dispute under Section 2-A (2) of the Industrial Disputes Act before the Labour Court.

Before the Labour Court, the petitioner-Corporation filed a counter denying the allegations made by the second respondent-workman stating that the enquiry conducted by it revealed that the workman was rash and negligent in driving the vehicle and therefore, he was liable to be removed and accordingly removed from service.

On behalf of the second respondent-workman, no oral or documentary evidence was adduced. On behalf of the petitioner-Corporation, MW1 was examined and Ex.M1 to M7 were marked.

After a detailed consideration of the entire

evidence on record, the Labour Court came to a conclusion that the Corporation failed to substantiate the charge of negligence on the part of the second respondent-driver, therefore, the driver was not guilty of the charge. Hence, the Labour Court directed reinstatement of the second respondent-workman with continuity of service and all attendant benefits like seniority and promotion etc., but the back wages were restricted to 50%. Aggrieved by the same, the present writ petition is filed.

It is the contention of the petitioner-Corporation that the Labour Court failed to see that the charges were proved against the second respondent. Further, the finding of the labour Court that the Corporation failed to substantiate the charge of negligence on the part of the driver is not tenable, and as such the respondent-workman is not entitled for any relief.

Learned counsel for the second

respondent supported the award made by he Labour Court and submitted that no ground is made out to interfere into such an award passed by the Labour Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the entire material available on record.

It is revealed in the preliminary report Ex.M1 that by the time MW1 and the Chief Inspector reached the spot of the accident, the vehicle was removed to Kachiguda Police station and the deceased and injured were shifted to Gandhi Hospital. However, they have not recorded statements of any witnesses to the accident nor examined any person on the spot. Whereas in Ex.M2-spot explanation, the driver clearly stated that the motorcyclist came from left side of the vehicle and hit the bus and fell down, and immediately he stopped the bus. This goes to show that the

driver was cautious of his duties. Further, a perusal of the sketch said to have been prepared by the Corporation Officers opining that the driver failed to take precautions to avoid accident is not acceptable, because the connected persons were not examined and the vehicle as well as the victim were not available for inspection on the spot.

I am in agreement with the findings recorded by the Labour Court that it is not unusual that the motor cyclists take ride on the motor vehicles without taking steps for their safety and safety of others. The driver of the bus cannot be blamed unless the circumstances clearly point out that he has not exercised the necessary care and caution and applied his mental capacity rightly by foreseeing the things, to avoid any accident that is likely to take place.

In view of the above, the Labour Court has not committed any error in directing reinstatement of the workman into service with

continuity of service and attendant benefits, like seniority and promotion. But, however, in the facts and circumstances, I deem it appropriate to restrict the payment of back wages form 50% to 25% .

With the above modification, the writ petition is disposed of. No costs.

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25-04-2007

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